

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,

Plaintiff,

Crim. No. 11-96 (RHK/LIB)
**MEMORANDUM OPINION
AND ORDER**

v.

Jeffrey Allen Stoltz,

Defendant.

John R. Marti, Assistant United States Attorney, Minneapolis, Minnesota, for Plaintiff.

Caroline Durham, Office of the Federal Defender, Minneapolis, Minnesota, for Defendant.

This matter is before the Court on the Government's Motion to Vacate an Order of Release. (Doc. No. 18.) The United States seeks reversal of the Release Order issued by United States Magistrate Judge Leo I. Brisbois on March 25, 2011. (Doc. No. 13.) For the reasons below, the Court will grant the Motion and order that Stoltz be detained pending trial in this matter

Defendant Jeffrey Allen Stoltz has been charged by Indictment with being a felon in possession of a firearm. He was arraigned and entered a plea of not guilty on March 25, 2011. A detention hearing was also held on that date, at which Judge Brisbois denied the Government's Motion for Detention and set conditions of release, including placement in a half-way house and GPS monitoring. The Government immediately

moved to vacate Stoltz's release. Pursuant to the Government's Motion (Doc. No. 9), the Release Order was stayed by this Court pending review by the undersigned. (See Doc. No. 16.) A hearing was held on the Government's Motion on April 7, 2011.

Additionally, the Court has reviewed the transcript of Stoltz's initial detention hearing.

Review of a release order is provided for by 18 U.S.C. §3145(a)(1). This Court reviews such an order *de novo*. United States v. Maull, 773 F.2d 1479, 1481 (8th Cir. 1985) (en banc). A defendant may be detained if the Court finds there is no "condition or combination of conditions . . . [that] will reasonably assure the appearance of such person as required and the safety of any other person and the community." 18 U.S.C. § 3142(f). The Government must show "by clear and convincing evidence that no release conditions or set of conditions will reasonably assure the safety of the community and by a preponderance of the evidence that no condition or set of conditions . . . will reasonably assure the defendant's appearance." United States v. Abad, 350 F.3d 794, 797 (8th Cir. 2003). The Court is to consider multiple factors in determining whether satisfactory release conditions exist, including the nature of the offense, the history of the defendant, and the nature and seriousness of the danger to any person or the community that could be posed by the person's release. 18 U.S.C. § 3142(g).

Stoltz has an extensive criminal record dating back 30 years and including burglaries, drug crimes, and giving false information to police, to name just a few. He also has a history of engaging in criminal activity while on supervision. Given his record, Stoltz qualifies for Armed Career Criminal status and faces a 15-year statutory mandatory minimum in this matter. In light of Stoltz's long history of criminal activity

and his track record of committing crimes even while on supervision, as well as the nature of his prior offenses and the substantial mandatory minimum he now faces, this Court finds that there is no combination of release conditions which will reasonably assure his appearance and the safety of the community. The Government has shown by clear and convincing evidence that Stoltz poses a potential flight risk, and by a preponderance of the evidence that he is a significant danger to the community.

CONCLUSION

Based on the foregoing, and all the files, records, and proceedings herein, **IT IS ORDERED** that: (1) the United States' Motion to Vacate Order of Release (Doc. No. 18) is **GRANTED**; (2) the Release Order entered by United States Magistrate Judge Leo I. Brisbois on March 25, 2011 (Doc. No. 13) is **VACATED**; and (3) Stoltz shall remain detained pending trial in this matter.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: April 11, 2011

s/Richard H. Kyle
RICHARD H. KYLE
United States District Judge